

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53921 of 2025

Arising Out of PS. Case No.-275 Year-2022 Thana- SAKRA District- Muzaffarpur

Rakesh Singh @ Rakesh Kumar @ Rakesh Kumar Singh S/o- Nand Kishore Singh R/o Mohalla- Laprosi Mission Chowk Kanhauli Bishundatt PS- Mithanpura District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur, Advocate

For the Opposite Party/s : Ms.Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 04-08-2025 Heard Mr.Hari Kishore Thakur, learned counsel for the petitioner and Ms.Sharda Kumari, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sakra P.S.Case No.275 of 2022,FIR dated 26.05.2022 registered for the offences punishable under Sections 30(a),36 and 41(i)(ii) of Bihar Prohibition and Excise Act,2018.

3. Recovery is of 3436.920 liters of foreign liquor and Rs. Seven Lakhs Sixty Four Thousand Nine Hundred.

4. Learned counsel for the petitioner submits that it appears from the FIR as well as seizure list that nothing has been recovered from conscious possession of the petitioner



rather the recovery has been made from the Truck in question and altogether 3436.920 liters of foreign liquor was recovered from the Truck in question and name of the petitioner has been transpired during investigation on the basis of the confessional statement of apprehended co-accused person, namely, Santosh Kumar and similarly situated co-accused person, namely, Ajay Jha @ Babua Don has been granted privilege of anticipatory bail by this Court vide order dated 25.11.2022 passed in Cr. Misc. No.56185 of 2022. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C./Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail of the petitioner referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable. Further submits that the petitioner carries one more case other than the present one but fairly submits that the petitioner is on bail in the said case, as mentioned in para-3 of the anticipatory bail petition.

6. This Court is aware of the decision of the Full



Bench in the case of **Ram Vinay Yadav Vs. State of Bihar** reported in **2019 (2) PLJR 1089**. Having regard to the law laid down in the aforesaid judgment and the submission advanced on behalf of the parties, this Court for the limited purpose of grant of anticipatory bail, is inclined to accept the submission of Counsel for the petitioner.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and name of the petitioner has been transpired during investigation on the basis of confessional statement of apprehended co-accused person and similarly situated co-accused person has been granted privilege of anticipatory bail by this Court, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.10,000 (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.-1, Muzaffarpur in connection with Sakra P.S.Case No.275 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 and with other following conditions:-



(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his/her criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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